

verderic

Commonwealth of Massachusetts

## NORFOLK SUPERIOR COURT

Case Summary

Civil Docket

12/20/2004

11:10 AM

NOCV2004-01545

Edwards v Original Footwear Company

RECEIVED  
Clerk of the Court  
U.S.D.C. Mass.  
Date 12-21-04

File Date	09/24/2004	Status	Needs review for service (acneserv)	By
Status Date	09/24/2004	Session	B - Civil B	Deputy Clerk
Origin	1	Case Type	A01 - Services, labor, materials	
Lead Case		Track	F	

Service	12/23/2004	Answer	02/21/2005	Rule 12/19/20	02/21/2005
Rule 15	02/21/2005	Discovery	07/21/2005	Rule 56	08/20/2005
Final PTC	09/19/2005	Disposition	11/18/2005	Jury Trial	Yes

## PARTIES


<b>Plaintiff</b> William J Edwards Active 09/24/2004	<b>Private Counsel 045760</b> Conrad John Bletzer Jr Bletzer & Bletzer 300 Market Street Brighton, MA 02135 Phone: 617-254-8900 Fax: 617-254-5522 Active 09/24/2004 Notify
<b>Defendant</b> Original Footwear Company Service pending 09/24/2004	

## ENTRIES

Date	Paper	Text
09/24/2004	1.0	Complaint entry fee \$280 plff jury claim
09/24/2004		Origin 1, Type A01, Track F.
09/24/2004	2.0	Civil action cover sheet filed
09/24/2004		fast track notice sent to plff attorney
09/29/2004		ONE TRIAL review by Clerk, Case is to remain in the Superior Court
12/17/2004	3.0	Notice for Removal to the United States District Court filed by Original Footwear Company
12/17/2004	4.0	Notice of Removal

## SIGNATURE

A TRUE COPY

Attest:   
Deputy Assistant Clerk  
12-22-04

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

NORFOLK SUPERIOR COURT  
C.A. No. 04 01545

WILLIAM J. EDWARDS,  
Plaintiff

V.

THE ORIGINAL FOOTWEAR COMPANY,  
Defendant

COMPLAINT

RECEIVED  
Clerk's Office  
USDC, Mass.  
Date 12-27-04  
By Deputy Clerk

RECEIVED  
FILED  
CLERK OF THE COURTS  
NORFOLK COUNTY  
12/27/04

THE PARTIES

1.) The plaintiff, William J. Edwards, is an individual living and doing business at 173 Vine Rock Street in Dedham, MA 02026, Norfolk County.

2.) The defendant, The Original Footwear Company, is a corporation with an address of 4901 Cloutier Drive, Suite B in Salida, CA 95368.

THE FACTS

3.) In 2001, the plaintiff, a salesman, signed an "Independent Sales Representative Agreement" [Agreement] with the defendant. A Terry Mackness signed as "Chief Executive Officer/President" of The Original Footwear Company.

4.) This Agreement designated the plaintiff as a "Representative" of the defendant company.

5.) In this role as 'Representative,' the plaintiff was to actively seek sales opportunities for Original S.W.A.T. footwear in his designated territory of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

6.) Under the terms of the Agreement, the defendant was to pay to the plaintiff a 10% commission on all sales of Original S.W.A.T. footwear in the denoted territory.

7.) Relying on this agreement, the plaintiff facilitated a lucrative contract for Original S.W.A.T. footwear to be purchased by the Connecticut Department of Corrections [contract]. This contract is worth \$1,500,000.00.

8.) The plaintiff arranged for Horowitz Career Apparel and Uniforms of West Haven, CT to service the contract as the distributor. Horowitz Career Apparel and Uniforms was to receive \$5.00, above and beyond the plaintiff's 10% commission, on each pair of footwear purchased under the contract.

9.) Without the plaintiff being notified, the contract was awarded to another distributor, Lehigh Safety Shoe Company, LLC of Vestal, NY.

10.) As such, the defendant has refused to pay the plaintiff his 10% commission on the contract, violating the plain wording of the Agreement.

11.) The plaintiff has made demand upon the defendant to pay him 10 % of the contract. This amounts to \$150,000.00.

12.) The defendant has refused to pay the plaintiff the agreed commission on the contract.

13.) The defendant has been unfairly enriched by these actions.

14.) The defendant's actions are in violation of M.G.L. c.93A, §§ 2 & 11.

#### **CAUSES OF ACTION**

15.) Each Cause of Action specifically incorporates herein the paragraphs set forth above.

#### **FIRST CAUSE OF ACTION**

16.) This is a Cause of Action by the plaintiff, William J. Edwards, for breach of contract against the defendant, The Original Footwear Company.

#### **SECOND CAUSE OF ACTION**

17.) This is a Cause of Action by the plaintiff, William J. Edwards, for quantum meruit against the defendant, The Original Footwear Company.

#### **THIRD CAUSE OF ACTION**

18.) This is a Cause of Action by the plaintiff, William J. Edwards, against the defendant, The Original Footwear Company, for engaging in unfair and/or deceptive business practices in violation of M.G.L. c.93A, §§ 2 & 11.

**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the First Cause of Action.

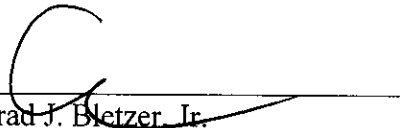
**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the Second Cause of Action.

**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the Third Cause of Action, including treble damages, attorney's fees and costs.

**JURY DEMAND**

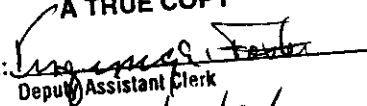
The plaintiff hereby demands a trial by jury on all issues.

Respectfully submitted for the plaintiff  
by his Attorney,

  
\_\_\_\_\_  
Conrad J. Bletzer, Jr.  
Bletzer & Bletzer, P.C.  
300 Market Street  
Brighton, MA 02135  
(617) 254-8900  
BBO# 045760

Dated: September 22, 2004

F:Edwards,Bill/Pleadings

A TRUE COPY  
Attest:   
Deputy Assistant Clerk  
12/17/04

<b>CIVIL ACTION COVER SHEET</b>	DOCKET NO.(S)  <b>04 01545</b>	<b>Trial Court of Massachusetts Superior Court Department</b> County: _____
PLAINTIFF(S) <b>William J. Edwards</b>		DEFENDANT(S) <b>The Original Footwear Company</b>
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <b>Conrad J. Betzer Jr.</b> 617-254-5900 <b>300 Market St. Brighton, MA 02135</b> Board of Bar Overseers number: <b>045760</b>		ATTORNEY (if known) <b>Richard Douglas Brew</b> 209-526-3500 <b>1601 I Street, 5th Fl. Modesto, CA 95354</b>
Origin code and track designation		
Place an x in one box only: <input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) <input type="checkbox"/> 4. F04 District Court Appeal c.231, s.97 & 104 (After trial) (X) <input type="checkbox"/> 5. F05 Reactivated after rescript relief from judgment/Order (Mass.R.Civ.P. 30) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)		
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)		
CODE NO.	TYPE OF ACTION (specify)	TRACK
<b>A01</b>	<b>Breach of K- Services</b>	<b>(F)</b>
IS THIS A JURY CASE?		
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (Attach additional sheets as necessary)		
A. Documented medical expenses to date: 1. Total hospital expenses ..... \$ ..... 2. Total Doctor expenses ..... \$ ..... 3. Total chiropractic expenses ..... \$ ..... 4. Total physical therapy expenses ..... \$ ..... 5. Total other expenses (describe) ..... \$ ..... <div style="text-align: right;">Subtotal \$ .....</div>		
B. Documented lost wages and compensation to date ..... \$ ..... C. Documented property damages to date ..... \$ ..... D. Reasonably anticipated future medical and hospital expenses ..... \$ ..... E. Reasonably anticipated lost wages ..... \$ ..... F. Other documented items of damages (describe) ..... \$ .....		
G. Brief description of plaintiff's injury, including nature and extent of injury (describe) <div style="text-align: right;">TOTAL \$ .....</div>		
CONTRACT CLAIMS (Attach additional sheets as necessary)		
Provide a detailed description of claim(s): <b>Defendant breached contract with plaintiff agreeing to pay 10% commission on a contract worth \$1,500,00. Plaintiff is owed \$150,000 on this contract. Defendant violated M.G.L. c. 93A secs 2 and 11 and is responsible for treble damages, costs and attorney fees.</b> <div style="text-align: right;">TOTAL \$ .....</div>		
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record _____		DATE: <b>9/24/04</b>

3.0

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

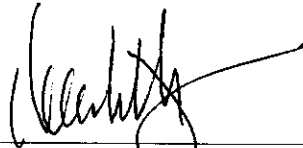
SUPERIOR COURT  
CIVIL ACTION  
NO. 04-01545

\_\_\_\_\_  
WILLIAM J. EDWARDS,  
  
Plaintiff,  
  
v.  
  
THE ORIGINAL FOOTWEAR COMPANY,  
  
Defendant.  
\_\_\_\_\_

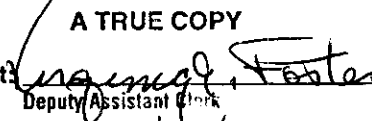
**NOTICE OF FILING  
NOTICE OF REMOVAL**

Please take notice that on December 10, 2004, the defendant in the above-entitled action, The Original Footwear Company, filed in the United States District Court for the District of Massachusetts a Notice of Removal of this action. Said action has been entered under docket number 04-12593-RGS. A certified copy of the Notice of Removal is being filed together with this Notice.

THE ORIGINAL FOOTWEAR COMPANY  
By its Attorneys

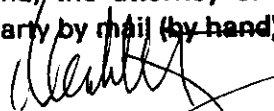


Bruce F. Smith  
BBO# 467900  
Howard P. Blatchford, Jr.  
BBO# 045580  
JAGER SMITH P.C.  
One Financial Center  
Boston, MA 02111  
(617) 951-0500

A TRUE COPY  
Attest:   
Deputy Assistant Clerk  
12/17/04

Dated: December 16, 2004.

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail (by hand) on 12-16-2004



4.0

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED

CLERKS OFFICE

2004 DEC 10 P 4:40

WILLIAM J. EDWARDS,

Plaintiff,

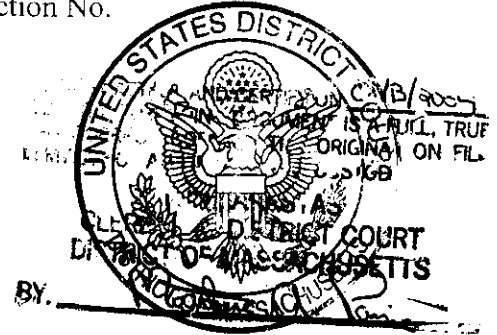
v.

THE ORIGINAL FOOTWEAR COMPANY,

Defendant.

U.S. DISTRICT COURT  
DISTRICT OF MASS.

04 - 12593 RGS  
Civil Action No.



NOTICE OF REMOVAL

To the Clerk:

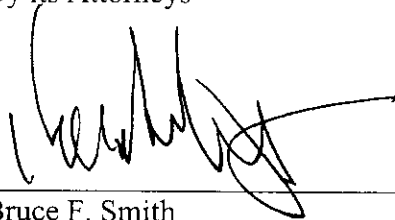
The Original Footwear Company, defendant in the above-entitled action pending in the Massachusetts Superior Court, Norfolk County, as Civil Action 04-01545, removes same to the United States District Court for the District of Massachusetts.

Defendant states the following as grounds for removal:

1. Upon information and belief, plaintiff is a citizen of Massachusetts.  
Defendant is a citizen of California. The Complaint alleges an amount in controversy that exceeds \$75,000. Accordingly, this Court has original subject matter jurisdiction under 28 U.S.C. § 1332(a)(1).
2. This Notice of Removal is being filed within 30 days after defendant's receipt of the initial pleading.
3. Removal to this Court is authorized by 28 U.S.C. § 1441 because the state court in which this action was filed lies within this District.

4. A copy of all process, pleadings, and orders served upon the defendant is attached.

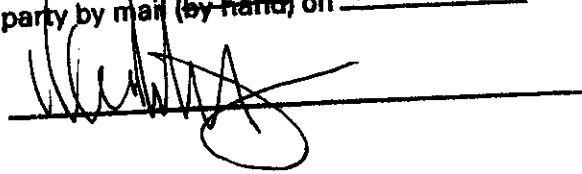
THE ORIGINAL FOOTWEAR COMPANY  
By its Attorneys

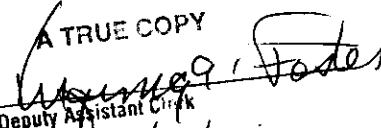


Bruce F. Smith  
BBO# 467900  
Howard P. Blatchford, Jr.  
BBO# 045580  
JAGER SMITH P.C.  
One Financial Center  
Boston, MA 02111  
(617) 951-0500

Dated: December 10, 2004.

I hereby certify that a true  
copy of the above document was  
served upon (each party appearing pro se  
and) the attorney of record for each other  
party by mail (by hand) on 12-10-2004.



A TRUE COPY  
Attest:   
Deputy Assistant Clerk  
12/17/04

NOV-30-04 TUE 03:18 PM DAMRELL NELSON SCHRIMP

FAX NO. 209-526-9320

P. 02

(TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:  
TORT - MOTOR VEHICLE TORT - CONTRACT -  
EQUITABLE RELIEF - OTHER.)

## COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION

NO 04 01545

William J. Edwards ..... Plaintiff(s)

The Original Footwear Company ..... Defendant(s)

## SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Conrad J. Bletzer, Jr., plaintiff's attorney, whose address is 300 Market St., Brighton, MA 02134, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Dedham either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

WITNESS, SUZANNE V. DELVECCHIO, Esquire, at ..... the .....

day of ....., in the year of our Lord two thousand and .....

*Suzanne V. DelVecchio* Clerk.

## NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOV-30-04 TUE 03:18 PM DAMRELL NELSON SCHRIMP

FAX NO. 209-526-9320

P. 03

# **PROOF OF SERVICE OF PROCESS**

I hereby certify and return that on \_\_\_\_\_, 20\_\_\_\_, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

.....  
 .....  
 .....

Dated: \_\_\_\_\_, 20\_\_\_\_\_

## **N. B. TO PROCESS SERVER:-**

**PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.**

\_\_\_\_\_, 20\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. SUPERIOR COURT  
CIVIL ACTION

NO.

Plaintiff

v.

Defendant

SUMMONS

(Mass. R. Civ. P.4)

NOV-30-04 TUE 03:19 PM DAMRELL NELSON SCHRIMP

FAX NO. 209-526-9320

P. 04

## COMMONWEALTH OF MASSACHUSETTS

04 01545

NORFOLK, ss

NORFOLK SUPERIOR COURT

C.A. No.

WILLIAM J. EDWARDS,  
Plaintiff

V.

THE ORIGINAL FOOTWEAR COMPANY,  
DefendantCOMPLAINTTHE PARTIES

1.) The plaintiff, William J. Edwards, is an individual living and doing business at 173 Vine Rock Street in Dedham, MA 02026, Norfolk County.

2.) The defendant, The Original Footwear Company, is a corporation with an address of 4901 Cloutier Drive, Suite B in Salida, CA 95368.

THE FACTS

3.) In 2001, the plaintiff, a salesman, signed an "Independent Sales Representative Agreement" [Agreement] with the defendant. A Terry Mackness signed as "Chief Executive Officer/President" of The Original Footwear Company.

4.) This Agreement designated the plaintiff as a "Representative" of the defendant company.

5.) In this role as "Representative," the plaintiff was to actively seek sales opportunities for Original S.W.A.T. footwear in his designated territory of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

6.) Under the terms of the Agreement, the defendant was to pay to the plaintiff a 10% commission on all sales of Original S.W.A.T. footwear in the denoted territory.

7.) Relying on this agreement, the plaintiff facilitated a lucrative contract for Original S.W.A.T. footwear to be purchased by the Connecticut Department of Corrections [contract]. This contract is worth \$1,500,000.00.

NOV-30-04 TUE 03:19 PM DAMRELL NELSON SCHRIMP

FAX NO. 209-526-9320

P. 05

8.) The plaintiff arranged for Horowitz Career Apparel and Uniforms of West Haven, CT to service the contract as the distributor. Horowitz Career Apparel and Uniforms was to receive \$5.00, above and beyond the plaintiff's 10% commission, on each pair of footwear purchased under the contract.

9.) Without the plaintiff being notified, the contract was awarded to another distributor, Lehigh Safety Shoe Company, LLC of Vestal, NY.

10.) As such, the defendant has refused to pay the plaintiff his 10% commission on the contract, violating the plain wording of the Agreement.

11.) The plaintiff has made demand upon the defendant to pay him 10 % of the contract. This amounts to \$150,000.00.

12.) The defendant has refused to pay the plaintiff the agreed commission on the contract.

13.) The defendant has been unfairly enriched by these actions.

14.) The defendant's actions are in violation of M.G.L. c.93A, §§ 2 & 11.

#### CAUSES OF ACTION

15.) Each Cause of Action specifically incorporates herein the paragraphs set forth above.

#### FIRST CAUSE OF ACTION

16.) This is a Cause of Action by the plaintiff, William J. Edwards, for breach of contract against the defendant, The Original Footwear Company.

#### SECOND CAUSE OF ACTION

17.) This is a Cause of Action by the plaintiff, William J. Edwards, for quantum meruit against the defendant, The Original Footwear Company.

#### THIRD CAUSE OF ACTION

18.) This is a Cause of Action by the plaintiff, William J. Edwards, against the defendant, The Original Footwear Company, for engaging in unfair and/or deceptive business practices in violation of M.G.L. c.93A, §§ 2 & 11.

**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the First Cause of Action.

NOV-30-04 TUE 03:20 PM DAMRELL NELSON SCHRIMP

FAX NO. 209-526-9320

P. 06

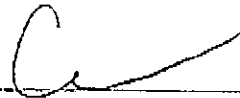
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**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the Third Cause of Action, including treble damages, attorney's fees and costs.

**JURY DEMAND**

The plaintiff hereby demands a trial by jury on all issues.

Respectfully submitted for the plaintiff  
by his Attorney,



Conrad J. Bletzer, Jr.  
Bletzer & Bletzer, P.C.  
300 Market Street  
Brighton, MA 02135  
(617) 254-8900  
BBO# 045760

Dated: September 22, 2004

F:Edwards,Bill/Pleadings

NOV-30-04 TUE 03:20 PM DAMRELL NELSON SCHRIMP

FAX NO. 209-526-9320

P. 07

<b>CIVIL ACTION COVER SHEET</b>		DOCKET NO.(S) <b>04 01545</b>	Trial Court of Massachusetts Superior Court Department County: <u>NO. Falm.</u>	
PLAINTIFF(S) <u>William J. Edwards</u>		DEFENDANT(S) <u>The Original Footwear Company</u>		
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <u>Conrad J. Betzer, Jr.</u> <u>300 Market St. Brighton, MA 02135</u> Board of Bar Overseers number: <u>045760</u>		ATTORNEY (Name) <u>Richard Douglas Brew</u> <u>209-526-3500</u> <u>1601 I Street, 5th Fl. Menlo, CA 95354</u>		
Origin code and track designation				
Place an x in one box only:				
<input checked="" type="checkbox"/> 1. F01 Original Complaint		<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)		
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)		<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)		
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)		<input type="checkbox"/> 6. E10 Summary Process Appeal (X)		
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)				
CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?	
<u>A01</u>	<u>Breach of K-Services</u>	<u>(F)</u>	<u>(X)</u> Yes ( ) No	
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.				
TORT CLAIMS (Attach additional sheets as necessary)				
A. Documented medical expenses to date:				
1.	Total hospital expenses		\$	
2.	Total Doctor expenses		\$	
3.	Total chiropractic expenses		\$	
4.	Total physical therapy expenses		\$	
5.	Total other expenses (describe)		\$	
			Subtotal	\$
B. Documented lost wages and compensation to date				
C. Documented property damages to date				
D. Reasonably anticipated future medical and hospital expenses				
E. Reasonably anticipated lost wages				
F. Other documented items of damages (describe)				
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)				
				\$
<b>TOTAL \$</b>				
CONTRACT CLAIMS (Attach additional sheets as necessary)				
Provide a detailed description of claim(s):				
<u>Defendant breached contract with plaintiff agreeing to pay 10% commission on a contract worth \$1,500,00. Plaintiff is owed \$150,000 on this contract. Defendant violated M.G.L. c. 93A Secs 2 and 11 and is responsible for treble damages, costs and attorney fees.</u>				
				TOTAL \$
				<u>500,000</u>
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT				
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."				
Signature of Attorney of Record				DATE: <u>9/24/04</u>